



Dangerous Goods Advisory Council

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February 3, 2003

Dr. Robert McGuire
Associate Administrator for Hazardous Materials Safety
Dockets Management System
U.S. Department of Transportation
Room PL 401
400 Seventh St., SW
Washington, DC 20590-0001

Re: Docket No. RSPA 2002-13658 (HM-215E); “Harmonization with the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization’s Technical Instructions” (Notice of proposed rulemaking published December 3, 2003)

Dear Dr. McGuire:

The Dangerous Goods Advisory Council (DGAC) is an international non-profit association established to promote safe transportation of dangerous goods (known domestically as hazardous materials) by supporting adoption of sound, effective, and uniform safety standards, and providing extensive training programs. DGAC is comprised of 158 large and medium-sized companies engaged in shipping and transporting dangerous goods, associated businesses, and 21 trade associations representing thousands of air, highway, and rail transporters, chemical producers and distributors, and packaging manufacturers.

DGAC supports DOT’s efforts to harmonize the HMR with international regulations and believes that the proposed rule accomplishes this objective in large part. We have comments on several aspects of the rule, however, as well as a few suggestions on §172.202(a)(5) (Description of hazardous materials on shipping papers) to clarify some of the requirements.

Subsidiary Hazard Class or Division on Shipping Papers

We support the proposed revision of §172.202(a)(2) to require the subsidiary hazard class or division to be entered in parentheses following the primary hazard class or division on a shipping paper. Many shippers add this information now, as permitted by the HMR, and we believe its mandatory application will enhance safety.

Alternative to the Basic Description Sequence

We support the proposed revision of §172.202(b) to allow, as an alternative to the basic description sequence, the identification number to be listed first on shipping papers followed by the PSN, hazard class/division, subsidiary risk and packing group. While DGAC strongly supported retention of previous international requirements specifying only one sequence

starting with PSN, we recognize that, in the end, both sequences were adopted as a compromise position. With this situation in mind, we believe both sequences should be permitted for domestic shipments as well.

Indication on Shipping Papers of the Types of Packages

We do not believe there is a demonstrated safety need for the proposed revision to make it mandatory for shippers to indicate on shipping papers, for all modes of transportation, the types of packages being used to transport hazardous material. Although this is now an international requirement and is permissive in the HMR, we think the additional cost to modify shipping paper programs and other practical problems such as its application to local delivery operations does not justify making the requirement mandatory for domestic transportation. For various reasons, the information presently appears on most shipping documents and in our view it should be left permissive except for transportation by vessel. In addition, we object to required display of this information on overpacks and are not aware of a corresponding provision in international regulations.

Revised Packaging Marking for Limited Quantities

We support the change to the international packaging marking for limited quantities; however, we consider it to be a substantial revision and suggest, at a minimum, a three-year implementation period be provided to permit enough time to deplete stocks of existing packagings.

Manufacturer Information in §178.2(c)(ii)

We support the addition of the sentence in Section 178.2(c)(1)(ii) that reads “This information must include any procedures to be followed,.....to effectively assemble and close the packaging for the purpose of preventing leakage in transportation.” It recognizes the flexibility necessary for effective implementation of communication between the manufacturer and the purchaser. For example, it recognizes that a manufacturer may specify closing forces in ranges rather than only one force e.g., “xx foot pounds of torque, plus or minus ten percent” so long as the manufacturer is certain that the package will meet test requirement throughout the range.

Marking Requirement for Routine Maintenance of IBCs

We also note that one of the provisions in the UN Model Regulations concerning a marking requirement for routine maintenance of IBCs by third parties does not appear in the proposed rule. This was likely an inadvertent omission and we request the requirement be added to the final rule using text as close as possible to the UN provision.

Comments on §172.202(a)(5)

1. The current language in §172.202(a)(5) includes the phrase, “...of the hazardous material covered by the description...”. The proposed language reads, “...of each hazardous material bearing a different proper shipping name, UN number or packing group. . .”. We disagree with the replacement of the existing phrase. Although RSPA’s proposed language tracks that of the Model Regulations, it is unnecessarily specific and out of place. We do not believe that retaining the existing phrase violates the spirit of harmonization. More importantly, we believe it represents an effort to specify when a separate description and/or quantity entry is required. We do not oppose clarification of this point, but believe it does not belong in a

paragraph restricted to one element of the material's description, i.e., the entry to indicate the total quantity. If RSPA determines that it must clarify this point in this rulemaking, we recommend that it be placed in §172.201 or in another appropriate place which makes it clear that it applies to all elements of the description, not just this one item of the description. Further, if this clarification is given, the statement should use the term "identification number" rather than "UN number"; otherwise, it will not apply when "NA" numbers are assigned.

The proposal restricts the choice of methods by which the person preparing the shipping paper may measure and indicate the quantity of material. The current requirement reads, ". . . (by net or gross mass, capacity, or as otherwise appropriate) . . ." and the proposed language (more restrictively) reads, "by volume or mass, as appropriate". Although the language in the NPRM tracks the UN Model Regulations, it is more restrictive than the current HMR provision. We believe it unnecessarily restricts the methods and that the current language does not violate the spirit of harmonization even while being more flexible. Therefore, we propose the existing language be retained. However, if the language is adopted from the NPRM, we suggest including the statement "when the quantity is expressed by mass, either net mass or gross mass may be used".

2. The proposed examples of entries that could be used to indicate the quantity of material include indications of "net" or "gross" mass, i.e., ". . . '1box, net mass, 30 kg' or '2 drums, gross mass, 200 kg.' " We appreciate examples in the HMR, but the danger is that they will possibly be used as an indication of the only manner, rather than one *possible* manner, in which a requirement may be met. Therefore, we recommend that the words "net mass" and "gross mass" be removed from their examples.

3. The proposed language states "Abbreviations may be used to specify the unit of measurement for the total quantity." This is already permitted in §172.202(c) where it also includes a reference to indications of the types of packaging. We believe it is unnecessary to partially duplicate an existing provision and recommend RSPA not include this sentence in §172.202(a)(5). However, if RSPA does decide to include that remark in this paragraph, it should be broadened to also include a reference to the types of packagings as well as to the units of measurement.

4. Existing §172.202(a)(5) and proposed §172.202(a)(5) both refer to "empty" packagings. Because the word "packaging" refers to the components and the word "package" refers to components *and* their contents, and because the provision is intended for packages containing a residue of the original contents, we believe a better term would be "empty packages". However, this, too, is somewhat misleading, and we noted that the definition of "empty" was removed several years ago from §171.8 and a definition of "residue" was added. Further, the Model Regulations use the term "empty uncleaned packagings". We believe this is an opportunity for RSPA to incorporate terminology consistent with their defined terms and to better align with the international text. We, therefore, suggest the use of the term "packages containing only residue" rather than the term "empty packagings".

For clarity, we suggest the paragraph be restructured as follows:

§172.202 Description of hazardous material on shipping papers

(a)* * *

(5) The total quantity of hazardous materials covered by the description must be indicated (by net or gross mass, capacity, volume, or as otherwise appropriate) and must include an indication of the applicable unit of measurement. For example, “500 lbs.”, or “50 gal.”, etc. This requirement does not apply to packages containing only residue. The number and type of packages may be indicated. The following provisions also apply:

(i) For Class 1 (explosive) materials, the quantity must be the net explosive mass.

(ii) For hazardous materials in salvage packaging, an estimate of the quantity is acceptable.

(iii) Bulk packages are excepted from this requirement, however, some indication of the total quantity must be shown, for example, “1 cargo tank”, “2 IBCs”, etc.

(iv) Cylinders are excepted from this requirement; however, some indication of the total quantity must be shown, for example, “10 cylinders”.

If the following provision becomes mandatory, then insert text:

(6) The number and type of packages must be indicated. The type of packages may be indicated by description or by packaging specification number when applicable (for example, “12 drums”, “12 UN 1A1”, “15 4G”, “2 UN 3H1 jerricans”, etc.).

We appreciate the opportunity to comment on this proposed rule and would be pleased to discuss further any of our comments and suggestions.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan I. Roberts", with a stylized, flowing script.

Alan I. Roberts
President